

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cloey Romans	Team: Squad #15	CCRB Case #: 202102147	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 03/25/2021 7:15 PM	Location of Incident: 77th Street subway station (6 train)	Precinct: 19	18 Mo. SOL 9/25/2022	EO SOL 9/25/2022	
Date/Time CV Reported Thu, 03/25/2021 9:00 PM	CV Reported At: IAB	How CV Reported: Phone	Date/Time Received at CCRB Mon, 04/05/2021 11:25 AM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POF Yohanna Bustamante	24721	962282	TB ATU

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Iliana Quezada	10967	962032	TB ATU

Officer(s)	Allegation	Investigator Recommendation
A.POF Yohanna Bustamante	Discourtesy: Police Officer Yohanna Bustamante spoke discourteously to § 87(2)(b)	

Case Summary

On March 25, 2021, § 87(2)(b) submitted this complaint with the Internal Affairs Bureau (IAB) via telephone. On April 5, 2021, this case was received by the CCRB via log #21-7575.

At approximately 7:15 p.m. on March 25, 2021, Police Officers Iliana Quezada and Yohanna Bustamante of the Transit Borough Anti-Terrorism Unit had an interaction with § 87(2)(b) when she jumped the turnstile at the 77th Street and Lexington Avenue Subway station in Manhattan. After disagreeing about § 87(2)(b) paying the fare, Police Officer Bustamante allegedly said to § 87(2)(b) “Shut the fuck up,” (**Allegation A: Discourtesy—Word, § 87(2)(g)**). No summonses or arrests were made during this incident.

MTA footage was obtained by the investigation, though it did not capture the incident.

Findings and Recommendations

Allegation (A) — Discourtesy: Police Officer Yohanna Bustamante spoke discourteously to

§ 87(2)(b)

The general contours of the incident are undisputed. The uptown bound subway station at 77th Street and Lexington Avenue, Manhattan, has turnstiles that face steps leading down to the train platform. The turnstiles are visible from the portion of the train platform on the other side of the stairs. On March 25, 2021, at approximately 7:15 p.m., PO Bustamante and PO Quezada were standing on the platform facing the turnstiles. § 87(2)(b) manipulated the turnstile to evade the train fare. PO Bustamante advised § 87(2)(b) to exit the platform and re-enter upon paying the fare. § 87(2)(b) followed PO Bustamante’s instructions, and after paying the fare, walked onto the subway platform. § 87(2)(b) spoke to PO Bustamante and expressed her dissatisfaction that PO Bustamante made her pay the fare. § 87(2)(b) told PO Bustamante that she would be filing a complaint against PO Bustamante for cursing at her. § 87(2)(b) called 911 and filed a complaint. PO Bustamante and PO Quezada boarded a train and left. What remains in dispute is whether PO Bustamante used any discourteous language toward § 87(2)(b).

During her sworn statement on April 21, 2021, § 87(2)(b) stated after paying the fare and at the platform, she expressed frustration at having to pay \$2.75 and told PO Bustamante that there were more important things for PO Bustamante to worry about. PO Bustamante responded to § 87(2)(b) by telling her “Shut the fuck up” (Board Review 05).

§ 87(2)(b) stated that though there were other civilians to witness the interaction, she was unable to identify any. MTA footage was obtained but it did not capture the incident. No other witnesses were able to be identified through the course of this investigation.

During her CCRB interview on May 26, 2021, Police Officer Bustamante stated that § 87(2)(b) complained about paying the fare when she re-entered the platform. PO Bustamante ignored § 87(2)(b)’s comments and did not engage in any further interaction with her. § 87(2)(b) continued expressing her anger, directing her comments at PO Bustamante. PO Bustamante could not recall the exact words used by § 87(2)(b) but knew she was upset. § 87(2)(b) continued talking and told PO Bustamante that she would be calling 911 to file a complaint against her for cursing. PO Bustamante denied telling § 87(2)(b) to be quiet. PO Bustamante denied using any prophane language or curse words while speaking to § 87(2)(b). PO Bustamante denied having said, “Shut the fuck up,” at any point during the incident and denied any other officer having done so (Board Review 04).

During her CCRB interview on May 26, 2021, Police Officer Quezada stated that upon § 87(2)(b) re-entering the platform, she seemed upset and complained but PO Quezada could not recall exactly what she said or who her comments were directed at. PO Quezada said she had no further interaction with § 87(2)(b) but did see PO Bustamante speak to her. PO Quezada could not hear what was said by either party. § 87(2)(b) sat on a bench to make a phone call, but PO Quezada did not know what it was regarding. PO Bustamante informed her that § 87(2)(b) was calling 911 to file a complaint against her for cursing. PO Bustamante told PO Quezada she had not cursed at § 87(2)(b). PO Quezada told PO Bustamante that she had not heard any profanity or the conversation (Board Review 06).

Memo book entries from both PO Bustamante and PO Quezada noted that § 87(2)(b) alleged that “an officer had cursed” and that she filed a complaint. Neither memo book notes whether profanity was used, only that § 87(2)(b) alleged one of the officers had used profane language toward her (Board Review 07).

§ 87(2)(g)

§ 87(2)(g)

Civilian and Officer CCRB Histories

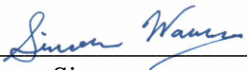
- This is the only CCRB case to which § 87(2)(b) has been a party (Board Review 01).
- Police Officer Bustamante has been a member of service for four years and has no prior CCRB allegations.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- According to the Office of Court Administration (OCA), § 87(2)(b) has no history of criminal conviction (Board Review 02).
- As of June 16, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 03).

Squad: 15

Investigator:	<u>Cloey Romans</u>	<u>Inv. Cloey Romans</u>	<u>6/24/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>06/29/21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date